

REMARKS

As a preliminary matter, the Examiner has objected to ¶ [046] because of an informality. Applicants have amended ¶ [046] to correct this informality. Accordingly, Applicants respectfully assert that ¶ [046] is now in acceptable form.

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims.

The Examiner rejects claims 20-40 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In addition, the Examiner rejects claims 20, 24, 28, 30, 34, and 36 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has rejected claims 20-32, 39, and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 959,494 to Fisher (“Fisher”). The Examiner has also rejected claims 33-36 under 35 U.S.C. § 103(a) as being unpatentable over Fisher in view of U.S. Patent Application Pub. No. 2003/0024285 to Segawa (“Segawa”). In addition, the Examiner has rejected Claim 37 under 35 U.S.C. § 103(a) as being unpatentable over Fisher in view of Segawa and further in view of U.S. Patent No. 5,862,690 to Jancsek (“Jancsek”).

Claims 20, 24, 34, and 36 have been currently amended. Claims 20-40 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current claims 20-40. An early Notice of Allowance is therefore requested.

I. THE CURRENT OFFICE ACTION CANNOT BE MARKED AS FINAL

Examiner has marked the current Office Action as final. However, the examiner has added a new rejection of Claim 30 not previously presented, and which was not necessitated by any amendment to the claims. More specifically, Examiner has rejected Claim 30 under 35

U.S.C. § 112, second paragraph as being unclear because the specification has no mention of the possibility that the lock element can be made of a metal part with a coating material.

While the Examiner previously rejected Claim 30 under 35 U.S.C. § 112, first paragraph, the current rejection of Claim 30 under 35 U.S.C. § 112, second paragraph is a completely new rejection. As such, it is wholly improper to mark the current Office Action as Final. Therefore, Applicants must respectfully request that the Examiner withdraw the finality of the current Office Action.

II. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

III. OBJECTION TO THE DRAWINGS OF UNDER 37 C.F.R. § 1.83(A)

On page 2 of the current Office Action, the Examiner objects to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. These rejections are respectfully traversed and believed overcome in view of the following discussion.

In particular, Examiner asserts that the drive toothed wheel 18 must be shown or the feature(s) canceled from the claim(s).

Drive toothed wheel 18 is, in fact, shown in Fig. 3. Fig. 3 lists “18, 26” and not just “18” because the drive tooth wheel 18 and the driven toothed wheels 26 have the same shape. As the Specification states:

“The driven toothed wheels and drive toothed wheels advantageously have the same shape and have, for example, a center square opening 46 which makes possible a rotatable bearing support on a round mandrel 48 of the bearing part 28 on the one hand, but is also suitable on the other hand as a receptacle for a square for connecting to a hand lever 16 so as to be rigid against rotation.” Application, ¶ [036] (emphasis added).

The specification also states:

“The teeth 24 of the toothed rod 20 can be whole or, as is shown in Fig. 2, partial, i.e., can comprise toothing portions 24, 124, 224, 324, and so on. **One of these portions, e.g., portion 324, meshes with the drive toothed wheel 18, while the rest of the portions 24, 124, 224 mesh with driven toothed wheels 26 of different rotary lock elements 22.**” Application, ¶ [031] (emphasis added).

Accordingly, it is apparent that the drive tooth wheel 18 and the driven toothed wheels 26 have the same shape, and that the difference between the drive tooth wheel 18 and the driven toothed wheels 26 is their location and their function.

In response, Examiner continues to maintain that it is still not clear how the drive toothed wheel 18 is incorporated in the device along with the other components. Applicants must assert, however, that the above sections of the specification do in fact clearly explain how the drive toothed wheel 18 is incorporated in the device along with the other components.

Furthermore, Applicants have currently amended the drawings based upon the above language of the specification to more clearly illustrate the drive toothed wheel 18. In particular, Fig. 2 has been amended to include a depiction of the drive toothed wheel 18 meshing with the portion 324 of the toothed rod 20, as explained above in paragraph [031] of the specification. Similarly, Figs. 3-4B, which previously referred to both drive toothed wheels 18 and 26, have been amended to now consist of two sets of drawings (i.e., new Figs. 3-4B and new Figs. 7-8B), with each set

referring to a separate drive toothed wheel (i.e., Figs. 3-4B now refer only to wheel 26 and Figs. 7-8B only refer to wheel 18).

Accordingly, Applicants' respectfully assert that the figures adequately depict the drive tooth wheel 18. Therefore, Applicants respectfully request the Examiner withdraw the objection to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims.

IV. REJECTION OF CLAIMS 20-40 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

On page 3 of the current Office Action, the Examiner rejects claims 20-40 under 35 U.S.C. § 112, first paragraph. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Specifically the Examiner contends that, within the specification, the drive toothed wheel 18 is discussed as a separate entity from the driven toothed wheel 26, but the figures do not show the drive toothed wheel in conjunction with the other components of the device.

As stated above, Applicant's note that drive toothed wheel 18 is, in fact, shown in Fig. 3. Fig. 3 lists "18, 26" and not just "18" because the drive tooth wheel 18 and the driven toothed wheels 26 have the same shape. As the Specification states:

"The driven toothed wheels and drive toothed wheels advantageously have the same shape and have, for example, a center square opening 46 which makes possible a rotatable bearing support on a round mandrel 48 of the bearing part 28 on the one hand, but is also suitable on the other hand as a receptacle for a square for connecting to a hand lever 16 so as to be rigid against rotation." Application, ¶ [036] (emphasis added).

The specification also states:

"The teeth 24 of the toothed rod 20 can be whole or, as is shown in Fig. 2, partial, i.e., can comprise toothing portions 24, 124, 224, 324, and so on. One of these portions, e.g., portion 324, meshes with the drive toothed wheel 18, while the rest of the portions

24, 124, 224 mesh with driven toothed wheels 26 of different rotary lock elements 22.” Application, ¶ [031] (emphasis added).

Accordingly, it is apparent that the drive tooth wheel 18 and the driven toothed wheels 26 have the same shape, and that the difference between the drive tooth wheel 18 and the driven toothed wheels 26 is their location and their function. The specification also states:

“The swivel lever 16 is supported on a driveshaft 56 so as to be swivelable around an axis 58 extending perpendicular to the driveshaft axis. The driveshaft 56 forms, or carries at its end facing inward, a square on which the drive toothed wheel 18 that is provided with a square hole 46 can be arranged in a positive engagement so that the drive toothed wheel 18 can be rotated, e.g., by 90° or more when rotating the swiveled out lever 16 around the axis of the driveshaft 56. In this way, the rod 20 is displaced and at the same time drives driven toothed wheels 26 in such a way that the latter rotate in turn....” Application, ¶ [042] (emphasis added).

Accordingly, the Fig. 3 shows the drive toothed wheel 18 in conjunction with the other components of the device. As it happens, most of the components which surround the drive toothed wheel 18 also surround the driven toothed wheels 26. Therefore, Fig. 3 includes the label “18, 26”. Applicants respectfully assert that Fig. 1 in combination with Fig. 3 adequately depicts both the drive toothed wheel 18 and the driven toothed wheels 26 in conjunction with the other components of the device.

Also, as stated above, the figures have been amended in accordance with the above portions of the specification to more clearly depict the drive toothed wheel 18.

Therefore, Applicants respectfully request the Examiner remove the rejection of claims 20-40 under 35 U.S.C. § 112, first paragraph. Applicants also respectfully assert that it was improper for Examiner to only consider that the device includes one driven toothed wheel as the drive toothed wheel 18 and the driven toothed wheels 26 were adequately described and depicted in the current Application.

V. REJECTION OF CLAIMS 20, 24, 27-30, AND 34-36 UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

On page 4 of the current Office Action, the Examiner rejects claims 20, 24, 27-30, and 34-36 under 35 U.S.C. § 112, second paragraph. These rejections are respectfully traversed and believed overcome in view of the following discussion.

The Phrase: "handle lever"

On page 4 of the current Office Action, the Examiner rejects Claim 20 because the phrase "handle lever" is unclear since it is well known in the art that a lever is a type of handle. Claim 20 stands currently amended. Therefore, Applicants respectfully request the Examiner remove the rejection of Claim 20 under 35 U.S.C. § 112, second paragraph.

Claim 24

On page 4 of the current Office Action, the Examiner rejects Claim 24 because it is unclear if the first lock element and the second lock element are the same components as at least one lock element. Claim 24 stands currently amended. Therefore, Applicants respectfully request the Examiner remove the rejection of Claim 24 under 35 U.S.C. § 112, second paragraph.

The Phrase: "closing forces"

On page 4 of the current Office Action, the Examiner rejects Claim 28 because the phrase "closing forces" is not defined.

However, the Specification specifically states:

"[0008] In this way, doors or lids having a plurality of lock elements enabling a pull-in movement can be closed, and the lock elements can be actuated in a space-saving manner by means of a central, lockable operating element. In particular, this type of fastener can be applied wherever high closing force must be overcome or long closing paths must be implemented when using corresponding sealing systems for protecting against weather, water and dust and/or electromagnetic shielding and wherever it is very important to prevent attempts at unauthorized opening.

“[040] Accordingly, the long stop curvature of the shaped part 40 according to Fig. 1 ensures that a **large pull-in path**, which comes about, e.g., due to sealing strips 52, 152 **during the closing process** in which the sealing strips are compressed, is realized with relatively small rotating forces.

Application, ¶¶ [0008], [040] (emphasis added).

In response, Examiner asserts that it is still unclear which closing forces are being referred to within the claim. However, Claim 28 explicitly states, in part:

“wherein **the shaped part** which is arranged on the lock element for engaging behind the housing contour or cabinet frame contour **has a curved contour which enables a long closing path when loaded by closing forces.**”

As such, it is abundantly clear from the language of Claim 28 that it is “the shaped part” which is “loaded by closing forces”.

Accordingly, Applicants respectfully assert that the phrase “closing forces” is adequately described in the specification. Therefore, Applicants respectfully request the Examiner remove the rejection of Claim 28 under 35 U.S.C. § 112, second paragraph.

Claim 30

On page 4 of the current Office action, the Examiner rejects Claim 30 because the specification has no mention of the possibility that the lock element can be made of a metal part with a coating material. However, as stated in the previous response filed in this case on 2/19/08, the wording of Original Claim 10 supports the language of current Claim 30. In addition, the original claims are a part of the original specification. As such, the original specification, via Claim 10, most certainly mentions the possibility that the lock element can be made of a metal part with a coating of a material.

Therefore, Applicants respectfully request the Examiner remove the rejection of Claim 30 under 35 U.S.C. § 112, second paragraph.

The Phrase: “hard material”

On page 5 of the current Office Action, the Examiner rejects claims 34 and 36 because the phrase “hard material” is not defined. Claims 34 and 36 stand currently amended.

Therefore, Applicants respectfully request the Examiner remove the rejection of claims 34 and 36 under 35 U.S.C. § 112, second paragraph.

The Phrase: "the cylinder axis"

On page 5 of the current Office Action, the Examiner rejects Claim 36 because the phrase "the cylinder axis" lacks sufficient antecedent basis. Claim 36 states, in part:

"wherein the saw-proofing protection is a **cylindrical pin** which is supported in the hand lever so as to be rotatable around **the cylindrical axis of the cylindrical pin.**" (emphasis added).

As seen above, Claim 36 clearly has antecedent basis for the phrase "the cylindrical pin". In addition, any cylinder inherently has a cylindrical axis, just as any circle or sphere has a center. Similarly to the center of a circle or a sphere, a cylinder must have a cylindrical axis and can only have one cylindrical axis. Accordingly, no antecedent basis is required to be provided for the cylindrical axis of the cylindrical pin.

Therefore, Applicants respectfully request the Examiner remove the rejection of Claim 36 under 35 U.S.C. § 112, second paragraph.

VI. REJECTION OF CLAIMS 20-32, 39, AND 40 UNDER 35 U.S.C. § 102(B) BASED ON FISHER

On page 8 of the current Office Action, the Examiner rejects claims 20-32, 39, and 40 as being anticipated by Fisher. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Amended Claim 20 states, in part:

"for each lock element, a driven toothed wheel, **which is directly connected** to the lock element so as to be rigid against rotation with respect to the lock element and which engages with the toothing of the lock rod, being held on the door in a rotatable manner in order to couple the lock rod with the lock element or lock elements." (emphasis added).

Accordingly, the driven toothed wheel is directly connected to the lock element. Examiner points to Fig. 5 of Fisher as disclosing the above claim language.

However, as can be seen in Fig. 5 of Fisher, the gear pinion 15 is indirectly connected with cam body 1 via the stem 4. However, Claim 20 states that the driven toothed wheel is directly connected to the lock element. Thus, according to the invention there is provided direct contact between the lock element 22 and the driven toothed wheel 26, as shown in Fig. 3. This direct connection allows smaller locks or shorter distances between the parts of the lock, as is favorable when used for thin walled housings or cabinets. See, Application, ¶ [032].

In addition, Claim 24 states, in part:

“wherein a second lock element is **arranged on the drive toothed wheel** so as to be rigid against rotation with respect to the drive toothed wheel.”

As can be seen in Figs. 1 and 3 of Fisher, Fisher fails to disclose a lock element arranged on the intermediate pinion 15a.

In response to the above arguments, Examiner asserts that the driven toothed wheel 15 of Fisher is directly connected to the lock element 6 by way of stem 4. This, however, is a complete distortion of the meaning “directly” in the phrase “directly connected”. For example, if a plug is “directly connected” to a wall socket, that means that the plug is actually in the wall socket. The word “directly” precludes any “indirect” connections, such as via an extension cord. As such, Claim 20 requires that the driven toothed wheel be directly connected to the lock element.

However, as pointed out by the Examiner, the toothed wheel 15 of Fisher is connected to the lock element 6 via the stem 4. As such, while the shaft 4 is directly connected to the lock element 6, the toothed wheel 14 is not. Rather, the toothed wheel 15 is indirectly connected to the lock element 6 via the stem 4. Examiner’s assertion that the toothed wheel 15 is directly connected to the lock element 6 is logically flawed, as even Examiner must admit that the toothed wheel 15 of Fisher is connected to the lock element 6 via the stem 4.

According to the invention, the direct connecting is by direct contact of the lock element 22 with the corresponding toothed wheel 18 or 26, respectively (protuberance 34 fits into the recess 32), making the construction small in an axial direction and giving good and play-free coupling. This is directly in opposite to Fisher, where the coupling is accomplished by use of a third part: the stem 4. At one end, the stem 4 is inserted into a square axial hole in the hub of cam body 1, while on the other end a gear pinion 15 is placed.

In addition, stem 4 of Fisher is not the same as the mandrel 48 shown in Fig. 1 of the current Application. As is explained in paragraph [037] of the current Application, the rotational forces are supported by the projections of the lug 38 which are received in recessed 32 of the toothed wheel 26, while the axial forces are taken up by a cap screw 50 which is received in a threaded bore hole 49 formed by the mandrel 48. Toothed wheel 26 is rotatable on the mandrel 48. When observed carefully, it is seen that Mandrel 48 has a round cross section with two opposing flattening surfaces. Furthermore, the list of reference numerals states “48 round mandrel”.

As Fisher fails to disclose the above claim language, Applicants respectfully assert that Examiner has failed to establish a *prima facie* case of anticipation of independent Claim 20, and corresponding claims 21-32, 39, and 40 because they are all dependant from independent Claim 20. Therefore, Applicant respectfully requests that Examiner remove the rejection of claims 20-32, 39, and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 959,494 to Fisher.

VII. REJECTION OF CLAIMS 33-36 AND 38 UNDER 35 U.S.C. § 103(A) BASED ON FISHER AND SEGAWA

On page 10 of the current Office Action, the Examiner rejects claims 33-36 and 38 as being unpatentable over Fisher in view of Segawa. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 33-36 are each ultimately dependent from independent Claim 20. As Claim 20 is allowable, so must be claims 33-36. Therefore, Applicant respectfully requests that Examiner remove the rejection of claims 33-36 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 959,494 to Fisher in view of U.S. Patent Application Pub. No. 2003/0024285 to Segawa.

VIII. REJECTION OF CLAIM 37 UNDER 35 U.S.C. § 103(A) BASED ON FISHER, SEGAWA, AND JANCSEK

On page 11 of the current Office Action, the Examiner rejects Claim 37 as being unpatentable over Fisher in view of Segawa and further in view of Jancsek. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claim 37 is ultimately dependent from independent Claim 20. As Claim 20 is allowable, so must be Claim 37. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 959,494 to Fisher in view of U.S. Patent Application Pub. No. 2003/0024285 to Segawa and further in view of U.S. Patent No. 5,862,690 to Jancsek.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



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